

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
June 1, 2009

**D053432     Hazewinkel v. MacGurn**

The petition for rehearing is denied. The opinion filed May 8, 2009, is modified.  
No change in judgment.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
June 2, 2009

- D052988     Schwartz et al. v. Vista Pointe Salton Sea, LLC**  
The order denying VPSS's petition to compel arbitration is affirmed.  
Irion, J.; We Concur: Huffman, Acting P.J., McDonald, J.
- D053733     People v. Richardson**  
The judgment is affirmed. Haller, Acting P.J.; We Concur: McDonald, J., McIntyre, J.
- D053814     People v. Lewis**  
The judgment is affirmed. Irion, J.; We Concur: Benke, Acting P.J., Haller, J.
- D051674     Hasso-Najm v. Ferrey**  
Affirmed. Irion, J.; We Concur: McDonald, Acting P.J., O'Rourke, J.
- D053491     Chau et al. v. Starbucks Corporation**  
Judgment reversed. Respondents to bear appellant's costs on appeal.  
CERTIFIED FOR PUBLICATION. Haller, Acting P.J.; We Concur: McDonald, J., Irion, J.
- D053986     People v. Rising**  
Upon filing an abandonment personally signed by the defendant, the appeal is dismissed and the remittitur is ordered to issue immediately.  
(Cal. Rules of Court, rule 8.316).
- D054764     Pacific Beach Development, LLC v. Superior Court of San Diego County/Island Development of San Diego, Inc., et al.**  
The petition for writ of mandate, opposition and reply have been read and considered by Justices Benke, Huffman and McDonald. The petition is denied.

Court convened at 1:30 p.m.

Present:    The Honorable Patricia Benke, Acting Presiding Justice, and  
              The Honorable Associate Justices Terry O'Rourke and Joan Irion  
Clerk:       D. Moore

- D053304     Government Employees Insurance Company v. Tower Glass, Inc./Kalwall Corporation**  
Cause called on merits. Robert B. Titus, Esq. argued for appellant, Kalwall Corporation. Abe Tang, Esq. argued for respondent, Tower Glass, Inc. Robert A. McGregor, Esq. argued for respondent, GEICO. Mr. Titus replied. Cause submitted.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
June 2, 2009 (Continued)

Court adjourned at 2:00 p.m.

**D055179     People v. Juneau**

An order of the Appellate Division of the San Diego Superior Court is not reviewable on appeal in the Court of Appeal without certification and transfer. (See Cal. Rules of Court, rule 8.1000 et seq.) The appeal filed on April 14, 2009, is dismissed.

**D053584     In re Tatiana V. et al., Juveniles**

The order is reversed. The matter is remanded to the trial court with directions to consider whether the de facto parent's actions cause substantial harm to the children, inconsistent with a parental role. (*In re Michael R.*, *supra*, 67 Cal.App.4<sup>th</sup> at pp. 156-158.) Nothing in this opinion should be construed as preventing the trial court from considering the family's current circumstances. Irion, J.; We Concur: Huffman, Acting P.J., O'Rourke, J.

**D052299     In re Marriage of Andrew**

Upon written request filed by cross-appellant, the cross-appeal is dismissed and remittitur is ordered to issue immediately.

**D054357     Pomilia v. Dorantes et al.**

Appellant has failed to file a brief after notice given pursuant to California Rules of Court, rule 8.220(a). The appeal is dismissed.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
June 3, 2009

- D054632    People v. Hayes**  
Appellant has failed to file a brief after notice given pursuant to California Rules of Court, rule 8.360(c)(5)(A). The appeal is dismissed.
- D054931    In re Hansen on Habeas Corpus**  
The petition is denied.
- D055046    J.M. et al. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**  
The attorney for petitioner J.M. has notified the court that a petition for writ of mandate under California Rules of Court, rules 8.452 and 5.600 will not be filed as there are no viable issues for writ review. The case as to J.M. is dismissed.
- D055099    Cynthia D. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**  
The attorney for petitioner Cynthia D. has notified the court that a petition for writ of mandate under California Rules of Court, rules 8.452 and 5.600 will not be filed as there are no viable issues for writ review. The case is dismissed.
- D054971    B.C. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**  
The attorney for petitioner B.C. has notified the court that a petition for writ of mandate under California Rules of Court, rules 8.452 and 5.600 will not be filed as there are no viable issues for writ review. The case is dismissed.
- D054960    Jason P. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**  
The attorney for petitioner Jason P. has notified the court that a petition for writ of mandate under California Rules of Court, rules 8.452 and 5.600 will not be filed as there are no viable issues for writ review. The case is dismissed.
- D054970    S.X. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**  
The attorney for petitioner S.X. has notified the court that a petition for writ of mandate under California Rules of Court, rules 8.452 and 5.600 will not be filed as there are no viable issues for writ review. The case is dismissed.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
June 4, 2009

- D054337     Rababy et al. v. Rancho Santa Fe Association**  
Upon written request filed by appellant Rababy et al., the appeal filed on January 1, 2009, is dismissed and the remittitur is ordered to issue immediately.  
(Cal. Rules of Court, rule 8.244(c)(2).) The briefing sequence order filed on February 26, 2009 is vacated, and the appeal filed by Rancho Santa Fe Association on December 18, 2008 shall proceed under rule time. Appellant Rancho Santa Fe Association's opening brief remains due on June 8, 2009.
- D053755     Goldstein v. Williams**  
The judgment in Goldstein's favor on the negligent misrepresentation cause of action is affirmed, and the judgment in Goldstein's favor on the breach of contract cause of action is reversed. Each party shall bear her own costs on appeal.  
McDonald, Acting P.J.; We Concur: O'Rourke, J., Irion, J.
- D055140     San Diego County Health and Human Services Agency v. Superior Court of San Diego County/Julianne C., a Minor**  
The petition for writ of mandate has been read and considered by Justices Benke, Huffman and Irion. The petition is denied.
- D053845     In re Cole C., a Juvenile**  
The orders are affirmed. Huffman, Acting P.J.; We Concur: Haller, J., Irion, J.
- D053053     Wiley et al. v. Yihua International Group**  
The judgment is affirmed. O'Rourke, J.; We Concur: McDonald, Acting P.J., Irion, J.
- D054218     In re Angel S. et al., Juveniles**  
The judgment is affirmed. Nares, Acting P.J.; We Concur: Haller, J., McDonald, J.
- D053453     People v. Ewart**  
The judgment is affirmed as modified to delete the residence and employment condition (condition no. 10(g)) and the medication condition (condition no 7(d)).  
McIntyre, J.; We Concur: Huffman, Acting P.J., O'Rourke, J.
- D054105     In re Antonio C., a Juvenile**  
The judgment is affirmed. McIntyre, J.; We Concur: Benke, Acting P.J., Huffman, J.
- D054373     Ortiz v. Superior Court of San Diego County/People**  
On June 1, 2009, the superior court granted the relief requested in this petition by issuing a certificate of probable cause. The petition is therefore dismissed as moot.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
June 5, 2009

**D053236    People v. Frizzle**

The judgment is affirmed. Huffman, J.; We Concur: Benke, Acting P.J., McIntyre, J.

**D054129    In re Joshua K. et al., Juveniles**

The petition for rehearing is denied.

**D052186    People v. Fisher**

Accordingly, appellant's convictions, on counts 6 and 7 (Ford Focus), counts 10 and 11 (Ford Mustang), and counts 14 and 15 (Oldsmobile Aurora), are reversed and remanded. The People may retry appellant as to all of those counts or as to only the Vehicle Code counts or as to only the receiving counts. If the People waive their right to retry appellant, the trial court is instructed to reinstate the Vehicle Code convictions, counts 6, 10, and 14. In all other respects, the judgment is affirmed. Benke, Acting P.J.; We Concur: Nares, J., Irion, J.